

MEMORANDUM OF AGREEMENT
WATER DIVISION & ENFORCEMENT DIVISION

PURPOSE:

The purpose of this agreement is to document decisions made in creation of a new EPA Region 9 Enforcement Division, and to clarify the intentions of the subject Divisions (Water Division and Enforcement Division) with regard to how they will conduct business in areas where their programs intersect or overlap. The following enforcement programs will move to the Enforcement Division – Clean Water Act, including NPDES and Wetlands and Safe Drinking Water Act, including public water system supervision and underground injection control.

PRINCIPLES

Our intent is to collaborate to address the Region's Enforcement and Water priorities and meet OECA's and OW's national program requirements and objectives. Achievement of these goals will rely on maintaining the close staff level coordination that currently exists within the Water Division between program and enforcement staff. We agree to timely share information which may be of value to the divisions, seek appropriate consultation and concurrence between divisions, and apply the principle of "no surprises."

PROCEDURES

This MOA defines topic areas where the Divisions have a shared interest. For each of these areas, the MOA defines a "Lead Division" and, where appropriate, a "Support Division." The MOA further defines how the Lead and Support divisions will interact and communicate around each specific topic area.

For the purposes of this MOA the following definitions apply:

- **Coordinate:** Provide relevant information in person, via email, or voice mail.
- **Consult:** Proactively seek and address input from his/her appropriate counterpart
- **Concur:** Obtain written concurrence.
- **Coordination, consultation or concurrence** will occur in advance of subject events, as early as is feasible.
- **Coordination and consultation** will occur at the at the staff level to the extent possible, elevating issues promptly when necessary. Concurrence will be at the level of the Division Director, unless otherwise designated.

- If differences of opinion arise which can't be resolved during coordination, consultation, or concurrence, managers will escalate issues promptly to their Division Directors for resolution.
- The Enforcement Division's Associate Director for Water has an open invitation to attend the Water Division's weekly Managers meeting and on an approximately monthly basis is expected to attend one of the weekly meetings of the Water Division's Senior Managers.
- To ensure adequate coordination in the management of NPDES data, a representative of the Enforcement Division's Information Management Section (IMS) will, on a monthly basis, attend a meeting of the Water Division's NPDES Permitting Office (NPO). The IMS will ensure that all necessary reports on Permit status are provided in a timely manner, and the NPO will ensure that information on permit issuance is provided in a timely manner. When new permits or renewed permits with new conditions are drafted, the NPO will provide copies of the draft permits to the IMS prior to the start of the permits' public comment periods. The IMS will confer with the NPO to ensure that permit provisions are accurately coded. Both the NPO and the IMS will work with dischargers to facilitate the transition to electronic reporting. Any difficulties in coordination between the Divisions on NPDES Data Management will be promptly elevated.
- To ensure adequate coordination on Large Capacity Cesspool (LCC) inspection and enforcement targeting, the Enforcement Division will consult with the Water Division before finalizing LCC inspection target lists. The Enforcement Division will also consult with Water Division on enforcement targeting. The Water Division will provide recommendations for potential LCC inspection and enforcement targets periodically (e.g., every six months) or as requested by Enforcement Division. In addition, the Enforcement Division will ensure that all inspection and enforcement data needed for OW program reporting (e.g., via 7520 forms or iWells) is directly provided or otherwise made available to Water Division within 4 weeks of the inspection or enforcement action.
- To ensure adequate coordination when conducting Drinking Water System Sanitary Surveys and Inspections, the Enforcement and Water Divisions will develop a schedule of planned field visits to be reviewed each quarter at tribal/state drinking water project officer meetings, or as unanticipated compliance and enforcement issues arise. The Water Division will provide copies of tribal sanitary surveys to the Enforcement Division prior to enforcement inspections. The Enforcement Division will consult with the Water Division on inspection findings via review of draft inspection reports as needed, at a minimum on all draft findings of significant deficiencies. The Water Division's review (including management) of draft inspection reports will not exceed 10 days.

To enable Water Division to support Enforcement Division activities, and to keep informed on status of cases in development, issued and under negotiations or

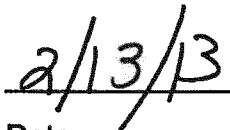
settlement, the Enforcement Division shall maintain and update the Wiki site and allow access to designated Water Division staff.

MODIFICATIONS TO THIS AGREEMENT


This agreement will be reviewed periodically and updated if necessary. The initial review will occur one year after signature. The agreement may be modified at any time by agreement of both Division Directors.



Kathleen Johnson, Director
Enforcement Division


Date

John Kemmerer, Acting Director
Water Division


Date

SDWA - UIC

All enforcement functions transfer to Enforcement (ENF) Division; programmatic functions remain in Water (WTR) Division

Function	Function Description	Lead Office	Support Office Role
Enforcement Planning	Strategize targets, annual workload, commitments, Case strategies	ENF	Consult with WTR
Inspections	Conduct Inspections, write reports	ENF	Coordinate with WTR. Any inspections conducted by WTR will be approved by ENF in advance
Case Development	Prepare Case	ENF	Provide expert assistance as needed
Settlement	Negotiations, litigation, etc	ENF	Provide expert assistance as needed
Credentials	Fed. Credentials of S/T/T Inspectors	ENF	No WTR Role (none currently exist)
	EPA Staff	ENF will coordinate on credential policies	Credentials for staff remaining in WTR will be retained as appropriate
Rule & Policy Review	Programmatic	WTR	Consult with ENF
	Enforcement	ENF	Consult WTR
Consulation w/ States/Tribes/Territories	OW Programmatic Grants	WTR	For enforcement and inspection tasks, ENF provides input on outputs, reports, and participates in meetings with grantees.
	State Grant workplan negotiation	WTR	ENF to Consult on enforcement/inspection aspects of state grant workplans
	Routine State/EPA meetings	WTR	Coordinate as needed with ENF
	Enforcement topics	ENF	Consult WTR
HQs Communication	OW	WTR	Coordinate with ENF as appropriate
	OECA	ENF	Coordinate with WTR as appropriate
Data Management	ICIS	ENF	For limited UIC Inspections by WTR, info will be provided to ENF for entry into ICIS
	R9 IWells Database	WTR	ENF staff provide inspection/enforcement data to WTR for entry into IWells
File Management	SDWA UIC Files	ENF manages UIC Enforcement/ Inspection files, WTR manages other UIC files	Support provided as needed to coordinate efficient file management
Contracts Management	OW Contracts	WTR	No ENF role
	OECA Contracts	ENF	No WTR role
Grants Management	Earmark Grants	WTR	No ENF role
Compliance Assistance	Existing Rules/Permit Req	ENF	Coordinate with WTR
	New Rules/Permit Req	WTR	Coordinate with ENF
Press/Outreach	Develop PR's, serve as EPA spokesperson	WTR for program PRs ENF for enf PRs	Consult ENF as appropriate Consult WTR

			All enforcement delegations to ENF except info authority to both divisions. Delegations regarding authority to confer with persons to whom an order has been issued pertain to matters concerning implementation of the order, and do not prevent WTR staff from communicating with such persons on general matters.
Delegations	Enforcement delegations	ENF	
X-Division Communications	Ensure Staff are aware of emerging issues affecting program	WTR	ENF staff rep attend UIC office meeting as appropriate
	Management	Joint	See cover memo